

June 20, 2018

**VIA ECF**

Hon. Patti M. Saris  
United States District Court for the District of Massachusetts  
1 Courthouse Way  
Boston, MA 02210

Re: *Petition of Ildar Uzbekov, 19-mc-91251-PBS*

Dear Judge Saris:

This firm represents Ildar Uzbekov, a citizen of the United Kingdom, with regard to the above captioned matter, a petition for issuance of a subpoena in aid of a foreign proceeding pursuant to 28 U.S.C. § 1782. At the request of the clerk, we are filing this letter via ECF to inform the Court that the respondent, Endurance International, Inc. (“Endurance”) has stated to us that it does not intend to oppose the petition.

As stated in the petition, Mr. Uzbekov’s counsel communicated with Endurance prior to filing the petition, and Endurance indicated that it would produce documents in response to a duly issued subpoena of the scope set forth in the Proposed Subpoena (Dkt. #1, Ex. #1) submitted to this court. On June 4, 2019, the day the petition was filed, Mr. Uzbekov’s counsel provided a copy of the petition to Endurance. That same day, Endurance acknowledged its receipt of the petition.<sup>1</sup> These communications are part of the email chain attached as **Exhibit A** hereto.

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<sup>1</sup> Although there is no universally prescribed procedure for Section 1782 petitions, our review of similar matters in this District indicates that the petitions are normally considered *ex parte* in the first instance and then, once a subpoena is issued, the respondent has the opportunity to oppose and/or object. *See, e.g., In re Application of Asta Medica, S.A.*, 981 F.2d 1, 2-3 (1<sup>st</sup> Cir. 1992) (recounting grant of “*ex parte*” Section 1782 petition). In this case, however, Mr. Uzbekov’s counsel kept Endurance informed at each stage of the proceedings and provided it with a copy of the petition upon filing.

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On June 18, 2019, the clerk of this Court inquired of the undersigned counsel whether Endurance intended to file an opposition. The undersigned counsel communicated the request to Endurance. Endurance replied by email on June 19 that it did not intend to oppose the petition. These communications are part of the email chain attached as **Exhibit A** hereto.

Based on the foregoing, Mr. Uzbekov requests that the Court treat the petition as unopposed and, if it finds that the Section 1782 statutory factors are met, grant the petition.

Sincerely,



David A. Kluft

cc (*by email*):

jenessa.smith@endurance.com

legal@endurance.com

usdoj@endurance.com

angela.liu@hsf.com

DGeiger@foleyhoag.com

Neil.Blake@hsf.com

# **EXHIBIT A**

## Kluft, David

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**From:** Jenessa Smith <jenessa.smith@endurance.com>  
**Sent:** Wednesday, June 19, 2019 8:07 PM  
**To:** Kluft, David; usdoj@endurance.com  
**Cc:** legal@endurance.com; angela.liu@hsf.com; Geiger, Dave  
**Subject:** Re: Request to Legal Department Regarding rusletter.com Domain [ ref:\_00D36qEW6.\_5001Qojwev:ref ]

Dear Mr. Kluft,

Thank you for your message. As you discussed with me and in your petition, you are not seeking any customer content. As such, Endurance International Group, Inc. would not oppose the petition. We would prefer the option to produce the documents to you in lieu of a court appearance.

I believe I mentioned our Data Request Policy to you on during our conversations, but I wanted to ensure you were aware of HostMonster's policy to [notify customers](#) of request's for their information.

Please contact me should you have any questions.

Thank you,

Jenessa Smith  
Endurance International Group, Inc.  
1500 N Priest Drive, Suite 200  
Tempe, AZ 85281  
P: (602) 817-5086  
F: 781-998-8277

On Tue, Jun 18, 2019 at 10:48 AM Kluft, David <[DKluft@foleyhoag.com](mailto:DKluft@foleyhoag.com)> wrote:

Dear Jenessa and Legal Department,

Attached please find an email from the judge's clerk relating to the District of Massachusetts matter about which we have previously communicated (a Section 1782 petition for issuance of a subpoena in aid of discovery in a foreign proceeding). As you will recall from the emails below, I provided a copy of the petition to you when it was filed, the receipt of which you kindly acknowledged.

The Court would like to know if you are planning to oppose the 1782 petition. My own review of Section 1782 cases indicates that some judges entertain 1782 petitions ex parte (and then allow the respondent to object or not later once the subpoena is issued), while other judges prefer to hear from the respondent before they rule on the petition. It appears that Judge Saris falls into the latter category, and therefore the clerk has asked me to pass on this inquiry.

The clerk also asks about Endurance putting in an appearance in the case. If you indicate that Endurance does not oppose the petition, it may be that the Court will not require an appearance, but that is not entirely clear to me from the email.

Can you please let me know if you have responses to these queries so I can reply to the Court. Please feel free to contact me directly if you want to discuss. I am available today by email or on my cell phone (617-833-5266).

## FOLEY HOAG LLP

**David A. Kluft | Partner**

Seaport West | 155 Seaport Boulevard | Boston, Massachusetts 02210-2600  
617 832 3092 direct | 617 833 5266 cell | 617 832 1000 main | 617 832 7000 fax

[dkluft@foleyhoag.com](mailto:dkluft@foleyhoag.com) | [www.foleyhoag.com](http://www.foleyhoag.com)

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**From:** Jenessa Smith <[jenessa.smith@endurance.com](mailto:jenessa.smith@endurance.com)>

**Sent:** Tuesday, June 4, 2019 6:12 PM

**To:** Kluft, David <[DKluft@foleyhoag.com](mailto:DKluft@foleyhoag.com)>; [usdoj@endurance.com](mailto:usdoj@endurance.com)

**Cc:** [legal@endurance.com](mailto:legal@endurance.com); [angela.liu@hsf.com](mailto:angela.liu@hsf.com); Geiger, Dave <[DGeiger@foleyhoag.com](mailto:DGeiger@foleyhoag.com)>

**Subject:** Re: Request to Legal Department Regarding [rusletter.com](http://rusletter.com) Domain [ ref: \_00D36qEW6.\_5001Qojwev:ref ]

Jenessa Smith

Endurance International Group, Inc. **Hello,**

This message is to confirm receipt of the legal documentation submitted to Endurance International Group, Inc. and attached for your reference. Your request is being processed.

Please feel free to contact me if you have any questions.

Thank you,

1500 N Priest Drive, Suite 200

Tempe, AZ 85281

P: (602) 817-5086

F: 781-998-8277

On Tue, Jun 4, 2019 at 12:01 PM Kluft, David <[DKluft@foleyhoag.com](mailto:DKluft@foleyhoag.com)> wrote:

Dear Janessa and Legal Department,

Per our prior written communications and phone conversation, we filed today an application to allow us to issue a subpoena in aid of a foreign proceeding pursuant to 28 USC 1782. The Schedule A in the proposed subpoena is identical to the one I discussed with Janessa on the phone. I have attached as a courtesy and for your reference a copy of the papers filed. Assuming the Court grants leave to issue the subpoena, we will serve it in due course. Thank you, and feel free to contact me if you have any questions.

**FOLEY  
HOAG** LLP

**David A. Kluft | Partner**

Seaport West | 155 Seaport Boulevard | Boston, Massachusetts 02210-2600  
617 832 3092 direct | 617 833 5266 cell | 617 832 1000 main | 617 832 7000 fax

[dkluft@foleyhoag.com](mailto:dkluft@foleyhoag.com) | [www.foleyhoag.com](http://www.foleyhoag.com)

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**From:** Jenessa Smith <[jenessa.smith@endurance.com](mailto:jenessa.smith@endurance.com)>

**Sent:** Wednesday, May 22, 2019 4:21 PM

**To:** Kluft, David <[DKluft@foleyhoag.com](mailto:DKluft@foleyhoag.com)>

**Cc:** [angela.liu@hsf.com](mailto:angela.liu@hsf.com); Geiger, Dave <[DGeiger@foleyhoag.com](mailto:DGeiger@foleyhoag.com)>

**Subject:** Re: Request to Legal Department Regarding [rusletter.com](http://rusletter.com) Domain [ ref:\_00D36qEW6.\_5001Qojwev:ref ]

Dear Mr. Kluft,

This message is to confirm the account referenced in your in your letter has been preserved. Please let me know should you need anything further.

Thank you,

Jenessa Smith

Endurance International Group, Inc.

1500 N Priest Drive, Suite 200

Tempe, AZ 85281

P: (602) 817-5086

F: 781-998-8277

On Fri, May 17, 2019 at 6:23 PM [legal@endurance.com](mailto:legal@endurance.com) <[legal@endurance.com](mailto:legal@endurance.com)> wrote:

Dear Mr. Kluft,

Thank you for your letter (attached or you reference). This message is to confirm we have initiated a preservation of the domain [rusletter.com](http://rusletter.com). I will message you further when the preservation process is complete. I have also locked the domain so it can not be modified or transferred to a different registrar.

I understand that you have requested certain customer information or other confidential information. Please be advised that such materials are subject to privacy policies and are held in confidence in the absence of a subpoena or other legal process. Of course, we would be happy to comply with any legally binding subpoena, court order, or other legal process requesting this information. If you obtain such a document, please fax it to (781) 998-8277. If you would like to discuss the scope of your subpoena, please contact me. My information is below.

Please note, I will be out of the office May 20 - May 21, 2019, and may not be available to take your call during that time. I will be available the remainder of the week between 1:00 pm - 9:30 pm EST

Thank you,

Jenessa Smith

Endurance International Group, Inc.

1500 N Priest Drive, Suite 200

Tempe, AZ 85281

P: (602) 817-5086

F: 781-998-8277

----- Original Message -----

**From:** Kluft, David [[dkluft@foleyhoag.com](mailto:dkluft@foleyhoag.com)]

**Sent:** 5/17/2019 12:09 PM

**To:** [legal@endurance.com](mailto:legal@endurance.com)  
**Cc:** [angela.liu@hsf.com](mailto:angela.liu@hsf.com); [dgeiger@foleyhoag.com](mailto:dgeiger@foleyhoag.com)  
**Subject:** Request to Legal Department Regarding [rusletter.com](http://rusletter.com) Domain

Dear Legal Department,

Please see the attached letter, which is also being sent via U.S. Mail.

## FOLEY HOAG<sub>LLP</sub>

**David A. Kluff** | Partner

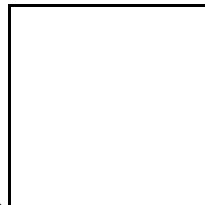
Seaport West | 155 Seaport Boulevard | Boston, Massachusetts 02210-2600  
617 832 3092 direct | 617 833 5266 cell | 617 832 1000 main | 617 832 7000 fax

[dkluff@foleyhoag.com](mailto:dkluff@foleyhoag.com) | [www.foleyhoag.com](http://www.foleyhoag.com)

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For more information about Foley Hoag LLP, please visit us at [www.foleyhoag.com](http://www.foleyhoag.com).

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